

Message Text

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20/71

ACTION L-03

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R 161700Z NOV 73

FM AMEMBASSY MADRID
TO SECSTATE WASHDC 7273

UNCLAS MADRID 6747

C O R R E C T E D C O P Y MRN (6747 VICE 6749)

FOLLOWING TEL REPEATED FOR YOUR INFO:

R 131000Z JUN 73
FM 16AF TORREJON AB SPAIN
TO OSAF WASHDC/ISA
MSCELM BREMERHAVEN
CSAF WASHDC/JACI
JUSMG MAAG MADRID SPAIN
AMEMBASSY MADRID
UNCLAS FOUO/JA
SUBJ: SPANISH PORT GENERAL SERVICES TARIFF
(TARIFF G-3) ON U.S. CARGOES.

1. THE PURPOSE OF THIS MESSAGE IS TO PROVIDE THE BACKGROUND INFORMATION AND CURRENT STATUS ON THE ABOVE REFERENCED TARIFF. PARAS 1A, 1B, AND 1C OF THE TAX RELIEF ANNEX OF THE MUTUAL DEFENSE ASSISTANCE AGREEMENT (MDAA), DATED 26 SEPT 1953, EXEMPTS THE USG FROM TAXATION ON MILITARY CRGO SHIPPED IN UNDER THE MDAA OR OTHERWISE. PARA 1A PROVIDES IN PART, "...THE ACTIVITIES AND EXPENDITURES CARRIED ON FOR THE COMMON DEFENSE UNDER THE TERMS OF THIS AGREEMENT OR OTHERWISE, WILL BE EXEMPT FROM TAXATION (INCLUDING SURCHARGES, CONTRIBUTIONS, OR OTHER CHARGES OF ANY NATURE, OTHER THAN REASONABLE COMPENSATION WHICH MAY BE MADE BY THE UNITED STATES FOR SERVICES REQUESTED AND RECEIVED) BY OR FOR THE BENEFIT OF THE SPANISH GOVERNMENT, POLITICAL SUBDIVISIONS THEREOF, OR QUASI-GOVERNMENTAL ORGANIZATION". PARA 1B PROVIDES THAT THIS RELIEF WILL APPLY IN ALL CASES IN WHICH THE U.S. IS FINALLY SUBJECT TO THE PAYMENT OF UNCLASSIFIED

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THE TAX. THIS TAX RELIEF ANNEX HAS BEEN IN EFFECT SINCE 26 SEPT 1953 AND WAS INCORPORATED BY REFERENCE INTO THE PRESENT AGREEMENT (THE AGREEMENT OF FRIENDSHIP AND COOPERATION BETWEEN THE UNITED STATES OF AMERICA AND SPAIN) BY LETTER DATED 25 SEPT

1970, SIGNED BY THE U.S. AMBASADOR AND THE MINISTER OF FOREIGN AFFAIRS FOR SPAIN.

2. ON 27 JAN 1967 THE SPANISH GOVERNMENT ISSUED BOLETIN OFICIAL DEL ESTADO NO. 23. THIS AUTHORIZES A TARIFF CHARGE FOR "...THE UTILIZATION OF MARITIME INSTALLATIONS DOCK AND CARGO HANDLING AREAS AND RELATED GENERAL SERVICES OF CUSTODY, THAT IS, FOR EMBARKATION, DEBARKATION AND TRANSHIPMENT OF CARGO". DURING FEB 1971, AFTER THREE MONTHS OF PRELIMINARY CORRESPONDENCE AND DISCUSSION, THE PORT AUTHORITY OF CADIZ, SPAIN (JOP) BEGAN LEVYING A CHARGE ON U.S. MILITARY CARGOES ENTERING THAT PORT. JOP MAINTAINS THAT THE CHARGES ARE FOR PORT SERVICES AND NOT A TAX AS THEY WERE FORMERLY CONSIDERED. JOP'S POSITION IS THAT THE TAX WAS CHANGED TO A SERVICE CHARGE BY BOLETIN OFICIAL DEL ESTADO NO 23.

3. MANIPULACION PORTUARIA DE CARGOS, S.A. (MAPOR), HAS CONTRACTED WITH THE U.S. TO PROVIDE STEVEDORING AND OTHER RELATED PORT SERVICES FOR U.S. CARGO COMING INTO SPANISH PORTS, MOST OF WHICH COMES THROUGH THE PORT OF CADIZ. IN ADDITION TO PROVIDING STEVEDORING SERVICES, MAPOR PAYS THE BILLS FOR OTHER SERVICES AND THE U.S. REIMBURSES THEM FOR THESE SERVICES PLUS A FIVE PERCENT (5 PERCENT) ADMINISTRATIVE FEE. JOP NOTIFIED MAPOR, AS THE U.S. AGENT FOR PAYMENT OF SERVICES. THAT THEY WOULD START LEVYING THIS TARIFF ON ALL NON-CONTAINERIZED CARGO WHICH COMPRISSES APPROXIMATELY 15 PERCENT OF ALL U.S. CARGO) AS OF 1 FEB 1971. SINCE THAT DATE JOP HAS BEEN SUBMITTING INVOICES FOR THE TARIFF ASSESSMENTS OF MAPOR. CHARGES FOR CONTAINERIZED CARGO (WHICH COMPRISSES APPROXIMATELY 85 PERCENT OF ALL U.S. CARGO) ARE LEVIED AGAINST AGENTS OF THE TWO PRIMARY CONTAINER CARRIERS (AMERICAN EXPORT LINES AND GRACE PRUDENTIAL).

4. THE COMMANDING OFFICER, U.S. ARMY TRANSPORTATION TERMINAL UNIT (USATTU), CADIZ, ADVISES THAT THE USG LEASES THE PORT FACILITY, INCLUDING THE WAREHOUSES USED BY THE USG. THE USG HAS PAID FOR ALL ADDITIONAL SERVICES REQUESTED AND RECEIVED. THE USG HAS REQUESTED NO SERVICES FROM JOP EXCEPT THE OCCASIONAL RENTAL OF A CRANE.

5. IN RESPONSE TO A REQUEST BY USAFE PROCUREMENT CENTER, TORREJON AB, SPAIN, THE CINCUSAFE (LGPP) APPROVED A PROPOSAL FOR MAPOR. IN AGREEMENT WITH JOP, TO DEPOSIT SUMS IN SATISFACTION OF THE TARIFF IN AN ESCROW ACCOUNT WITH A COMMERCIAL BANK FACILITY UNDER UNCLASSIFIED

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TIONS THAT SAID FUNDS WOULD NOT BE RELEASED TO JOP OR RETURNED TO U.S. GOVERNMENT UNTIL FINAL RESOLUTION OF THE LIABILITY QUESTION. UNDER THE PRESENT PROCEDURE USG AGENCIES PAY MAPOR THE AMOUNT OF THE TARIFF EVIDENCED BY INVOICES RECEIVED BY MAPOR FROM JOP. MAPOR DEPOSITS THESE FUNDS WITH THE BANK OF BILBAO WHICH ISSUED A BANK GUARANTEE IN FAVOR OF JOP FOR THE AMOUNT DEPOSITED.

6. AS OF THE DATES INDICATED, TOTAL BILLINGS AND CHARGES ARE AS FOLLOWS:

A. NON-CONTAINERIZED (BREAKBULK) CARGO:

(1) REIMBURSEMENT OF MAPOR FOR PAYMENT INTO ESCROW:
FEB-JUN 71 775,159 PTAS.
JUL-SEP 71 402,030 PTAS.
OCT-DEC 71 267,054 PTAS.

JAN-MAR 72 278,095 PTAS.

TOTAL 1,702,338 PTAS.

(2) BILLED BUT NOT PAUD:

APR-JUN 72 242,731.65 PTAS.

JUL-SEP 72 377,744.83 PTAS.

OCT-DEC 72 296,389.00 PTAS.

JAN-MAR 73 277,533.00 PTAS.

TOTAL 1,194,418.48 PTAS.

TOTAL NON-CONTAINERIZED 3,186.756.48 PTAS.

(\$54,944.99 AT 58)

B. CONTAINERIZED CARGO-NOT IN ESCROW:

(1) AMERICAN EXPORT LINES:

1 FEB 71-5 MAY 73 16,728,823 PTAS

(2) SEALAND (NOT CURRENTLY ACTIVE):

NOV 71-FEB 72 1,618,089 PTAS.

(3) GRACE PRUDENTIAL:

28 DEC 71-28 MAR 73 1,566.092 PTAS. (NOTE)

TOTAL CONTAINERIZED 19,913,004.00 PTAS

(\$343,328.00 AT 58)

GRAND TOTAL 23,099,760.48 PTAS.

(\$398,272.00 AT 58)

NOTE: 969,335 PESETAS PAID TO JOP BY LOCAL AGENT. FURTHER

PAYMENT BEING HELD IN ABEYANCE PENDING RESOLUTION OF THE ISSUE.

7. JOP HAS SUBMITTED INVOICES TO MAPOR FOR BOTH THE CONTAINERIZED AND NON-CONTAINERIZED CARGO SINCE FEB 1971. HOWEVER, JOP HAS NOT INSISTED ON NON-CONTAINERIZED BILLINGS BEING PLACED IN ESCROW SINCE THE MAR 1972 BILLINGS AND NO MONIES HAVE BEEN DEPOSITED ON CONTAINERIZED CARGO BEING PLACED IN ESCROW AND TO DATE UNCLASSIFIED

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NONE ARE IN ESCROW. HOWEVER, AS INDICATED ABOVE, THE NEW AGENT FOR GRACE PRUDENTIAL RECENTLY INADVERTENTLY PAID JOP 969,335 PESETAS.

ON 17 FEB 1973 THEY NOTIFIED JOP THAT NO FURTHER PAYMENTS WOULD BE MADE.

8. USATTU AND 16TH AIR FORCE OFFICIALS REPORTED THIS MATTER TO JUSMG-MAAG WHEN JOP FIRST INDICATED, DURING THE LATTER PART OF CY 1970. THAT THEY INTENDED TO BILL THE U.S. GOVERNMENT FOR THIS CHARGE. THE MATTER WAS CONSIDERED IN A MEETING OF THE PERMENENT SECRETARIAT IN 1971. THE SPANISH ADVISED THAT THE QUESTION OF LEGALITY OF THIS TARIFF WOULD BE HELD IN ABEYANCE UNTIL SUCH TIME AS A NEW FISCAL ANNEX TO THE 1970 AGREEMENT OF FRIENDSHIP AND COOPERATION WAS NEGOTIATED. ACCORDINGLY, IT APPEARS THAT THIS PROBLEM WILL NOT BE RESOLVED UNTIL A NEW FISCAL AGREEMENT IS NEGOTIATED

D. NO FURTHER ACTION IS ANTICIPATED BY THIS HEADQUARTERS AT THIS TIME.

UNQTE

MONTLLOR

UNCLASSIFIED

<< END OF DOCUMENT >>

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